



Informational Guideline Release

Bureau of Accounts
Informational Guideline Release (IGR) No. 10-101
October 2010

Supersedes IGR 04-101 in part; 03-101 in full; 96-102 in part, 92-105 in part, 91-102 in part, 90-214 in full, 90-101 in full, 87-244 in full and 87-233 in full; 82-02 in part and 82-03 in part and Any Inconsistent Prior Public Written Statements

CITY, TOWN AND DISTRICT DEBT PURPOSES, TERMS AND PAYMENT

**Chapter 188, §§ 27-34, 56 and 57 of the Acts of 2010
(Amending G.L. c. 44, §§ 7, 8 and 19; c. 70B, § 6(d); c. 71, § 16(d) and (n))**

This Informational Guideline Release (IGR) informs treasurers and other local officials about changes made by the Municipal Relief Act in the purposes for which cities, towns, improvement districts and regional school districts may borrow, as well as the term and debt service schedule for those loans.

Questions should be referred to the Bureau of Accounts Public Finance Section.

Topical Index Key:

Borrowing

Distribution:

Municipal/District/Regional School Treasurers
Selectmen/Mayors
City/Town Managers/Administrators
Finance Directors
Finance Committees
City/Town Councils
City Solicitors/Town Counsels

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**Chapter 188, §§ 27-34, 56 and 57 of the Acts of 2010
(Amending G.L. c. 44, §§ 7, 8 and 19; c. 70B, § 6(d); c. 71, § 16(d) and (n))**

SUMMARY:

These guidelines explain amendments made by the Municipal Relief Act in the purposes for which cities, towns, improvement districts and regional school districts may borrow, as well as the term and repayment schedule for those loans. [c. 188 of the Acts of 2010](#). The amendments are in effect.

Municipalities and districts may now borrow for several new purposes. Municipalities and improvement districts may now borrow under [General Laws c. 44, § 7](#) for: (1) other public works, improvements or assets not specifically described in that section, for up to five years; (2) the dredging of rivers, streams, harbors, channels and tide waters, for up to 10 years; (3) the construction or reconstruction of seawalls, revetments, breakwaters and other related structures, for up to 20 years (4) the funding of loans to property owners for renewable energy and energy conservation projects on their property under a local program created under [G.L. c. 44, § 53E^{3/4}](#) for up to 20 years; and (5) the cleanup or prevention activities at municipal facilities under [G.L. c. 21E](#) relating to the release of oil and hazardous materials, or [G.L. c. 21H](#) relating to solid waste, for up to 10 years. Cleanup and prevention plans must be approved by the Department of Environmental Protection (DEP). Regional school districts may now borrow under [G.L. c. 71, § 16\(d\) or \(n\)](#) for other public works or improvements of a permanent nature.

In addition, municipalities and districts may borrow for some of the new purposes described above and other purposes under [G.L. c. 44, § 7](#), [G.L. c. 44, § 8](#), [G.L. c. 70B, § 6\(d\)](#) (School Building Authority (SBA) approved projects) and [G.L. c. 71, § 16\(d\) or \(n\)](#) (regional school districts) for a term matching the useful life of the asset being financed, not to exceed 30 years, as determined by guidelines issued by the Division of Local Services (DLS) within the Department of Revenue. They may also make level debt service payments, or payments providing for more rapid amortization of principal, on most debt. As a result, they will no longer need Municipal Finance Oversight Board (MFOB) approval to issue qualified bonds under [G.L. c. 44A](#) in order to use level debt service, or issue longer-term debt, for some purposes.

Approval of emergency borrowings under [G.L. c. 44, § 8\(9\)](#) will also now be approved by the MFOB, not the Emergency Board, which is abolished.

These guidelines prescribe the DLS procedure for publishing schedules establishing maximum terms based on the useful life of the asset being financed. They also update or supersede all or part of prior Informational Guideline Releases (IGR), as listed below, relating to borrowing terms, purposes and debt service schedules and state oversight of local borrowings, and any other inconsistent prior public written statements. All of the provisions of those guidelines not specifically amended by this IGR or another IGR remain in effect:

<u>IGR</u>	<u>Sections Superseded/Amended</u>
1. Bureau of Accounts IGR 04-101, <i>Municipal Finance Oversight Board</i> (October 2004)	B; C-2 & 3
2. Bureau of Accounts IGR 03-101, <i>School Building Assistance Construction Projects: Renewal of Short-Term Debt and Impact of State Reimbursement Delays On Debt Exclusion</i> (July 2003)	All
3. Bureau of Accounts IGR 96-102, <i>Required Principal Payments on Short-term School and Design Debt</i> (August 1996)	B (Rest superseded by IGR 03-101)
4. Bureau of Accounts IGR 92-105, <i>Revised Municipal Borrowing Procedures</i> (December 1992)	II
5. Bureau of Accounts IGR 91-102, <i>Municipal Borrowing</i> (February 1991)	B (A-1 & A-2 superseded by IGR 03-102)
6. Property Tax Bureau IGR 90-214, <i>Borrowing to Remove Asbestos from Municipal Buildings</i> (January 1990)	All
7. Bureau of Accounts IGR 90-101, <i>Optional Debt Service Schedule on School Construction Projects</i> (January 1990)	All
8. Property Tax Bureau IGR 87-244, <i>Issuing Debt for Aerial Mapping and Appraisal Contacts</i> (November 1987)	All
9. Property Tax Bureau IGR 87-233, <i>Regional School District Authorization to Incur Debt for Recreational Purposes</i> (August 1987)	All
10. Bureau of Accounts IGR 82-02, <i>Qualified Bonds and Loan Default Avoidance Provisions</i>	Emergency Finance Board replaced by MFOB
11. Bureau of Accounts IGR 82-03, <i>Definition of Emergency and Extreme Emergency</i>	Emergency Board replaced by MFOB

GUIDELINES:

A. DIVISION OF LOCAL SERVICES GUIDELINES

The DLS may prescribe, and from time to time revise, schedules that establish the maximum term that cities, towns, improvement districts and regional school districts may borrow to finance certain capital projects based on the useful life of the asset under [G.L. c. 44, § 7](#), [G.L. c. 44, § 8](#), [G.L. c. 70B, § 6\(d\)](#) and [G.L. c. 71, § 16\(d\) or \(n\)](#). The schedules will show (1) all borrowing purposes authorized by those statutes, (2) their maximum statutory terms, and (3) their maximum terms, if any, established by the DLS. The schedules will be published on the [DLS website](#) and take effect on the date shown.

The term established in the [published schedule](#) is the maximum borrowing term allowed by law for that purpose and may be used for debt issued on or after its effective date. Officials in municipalities and districts that want the flexibility to borrow for that term should consult with bond and municipal counsel to ensure that borrowing authorizations are voted in a manner that will so permit.

B. BORROWING PURPOSES AND TERMS

1. Cities, Towns and Improvement District Loans

An improvement district is any district established under the general laws or a special act in order to provide fire, water, sewer, water pollution abatement, refuse disposal or light functions in all or part of one or more cities or towns. [G.L. c. 44, § 1](#). It may borrow for the purposes specified in [G.L. c. 44, § 7](#) or [G.L. c. 44, § 8](#) that are consistent with the purposes for which it is established and may spend monies. [G.L. c. 44, § 9](#).

a. Chapter 44 Inside/Outside Debt Limit Loans

The maximum term for a loan issued by a city, town or improvement district for a purpose specified in [G.L. c. 44, § 7](#) (inside its debt limit under [G.L. c. 44, § 10](#)) or [G.L. c. 44, § 8](#) (outside that limit) is the number of years specified in the statute, or applicable DLS schedule if longer.

b. Other Loans

The maximum term for a loan issued by a city, town or improvement district for any other purpose authorized by another general law or a special act is the number of years specified in that statute. The DLS schedules do not apply unless the loan is issued under [G.L. c. 44, § 7](#) or [G.L. c. 44, § 8](#).

2. Regional School Districts

a. Chapter 71 Loans

The maximum term for a loan issued by a regional school district for a purpose specified in [G.L. c. 71, § 16\(d\)](#) is 30 years, or the number of years in the applicable DLS schedule if shorter.

b. Other Loans

The maximum term for a loan issued by a regional school district for any other purpose authorized by another general law or a special act is the number of years specified in the statute. The DLS schedules do not apply unless the loan is issued under [G.L. c. 71, § 16\(d\) or \(n\)](#).

3. School Construction Project Loans

The maximum term for a loan issued by a city, town or regional school district under [G.L. c. 70B, § 6\(d\)](#) for a school construction project that has been approved by the SBA is 25 years, or applicable DLS schedule if longer.

B. PERMANENT DEBT SERVICE SCHEDULE

Repayment of municipal and district debt must be arranged so that the combined principal and interest paid each year is as equal as possible (level debt service payments), or the principal is paid down more rapidly. [G.L. c. 44, § 19](#).

C. BOND ANTICIPATION NOTES

Once a municipality or district has authorized debt for a project, it may issue temporary debt in anticipation of issuing the permanent, long-term debt. [G.L. c. 44, § 17](#). The maximum term for paying the serial loan is not extended by issuing temporary debt, i.e., the final loan payment must still be made within the maximum term allowed by law.

Bond anticipation notes (BANS) may be issued or renewed for up to two years from the date of issue of the original temporary loan without payment of principal, unless another period is authorized by another general law or a special act.

BANs may be renewed for up to five years from the date of issue of the original temporary loan, but principal payments are required beginning in the third year and the temporary loan must be repaid in full in the fifth year. Each paydown must be at least equal to the minimum payment that would have been required if the temporary loan had been converted to a serial loan, i.e., a paydown of the principal payment under a level debt service schedule for the number of years remaining.

D. STATE APPROVALS

Some municipal or district borrowings require approval of state officials.

1. Municipal Finance Oversight Board

The MFOB must approve the following borrowings:

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| a. | City, town or improvement district borrowings to establish or enlarge a gas or electric plant. | G.L. c. 44, § 8(8) |
| b. | City, town or improvement district borrowings to remodel or repair a gas or electric plant or telecommunications system. | G.L. c. 44, § 8(8A) |
| c. | City, town or improvement district borrowings for emergency purposes. | G.L. c. 44, § 8(9) |
| d. | City, town or improvement district borrowings for sewer system construction or payment to tie into neighboring municipality's system, unless municipality has a sewer enterprise or special revenue fund and the accounting officer certifies to the treasurer that sewer rates are set at a level sufficient to cover operating expenses and debt service. | G.L. c. 44, § 8(15) |
| e. | City or town borrowings that exceed the municipality's statutory debt limit. | G.L. c. 44, § 10 |
| f. | City, town or regional school district borrowings designated as Qualified Bonds. | G.L. c. 44A |
| g. | City, town or improvement district borrowings for projects receiving federal grants. These borrowings also require approval of the Governor. | c. 74 of the Acts of 1945 |

Cities, towns and districts with borrowings requiring approval of the MFOB should contact:

Mary Ann Growitz
Municipal Finance Oversight Board
Office of the State Auditor
1 Ashburton Place – Room 1819
Boston, MA 02108

Phone: 617-727-6200, extension 179 FAX: 617-727-5891
E-mail: MaryAnn.Growitz@sao.state.ma.us

2. Department of Environmental Protection

The DEP must approve plans relating to the following projects being financed by borrowing:

- a. City, town or improvement district borrowings to clean up or prevent pollution at existing or closed municipal facilities other than landfills or solid waste disposal facilities, including cleanup or prevention activities under [G.L. c. 21E](#) relating to the release of oil and hazardous materials, or [G.L. c. 21H](#) relating to solid waste. [G.L. c. 44, § 7\(32\)](#)
- b. City, town or improvement district borrowings to reconstruct or repair reservoirs. [G.L. c. 44, § 8\(4A\)](#)
- c. City, town or improvement district borrowings to clean up or prevent pollution at existing or closed landfills or solid waste disposal facilities, including cleanup or prevention activities under [G.L. c. 21E](#) relating to the release of oil and hazardous materials, or [G.L. c. 21H](#) relating to solid waste. [G.L. c. 44, § 8\(21\)](#)
- d. City, town or improvement district borrowings to construct solid waste disposal facilities other than landfills. [G.L. c. 44, § 8\(22\)](#)
- e. City, town or improvement district borrowings to reconstruct or repair solid waste disposal facilities other than landfills. [G.L. c. 44, § 8\(23\)](#)
- f. City, town or improvement district borrowings to close landfills, construct new landfills, or improve existing landfills. [G.L. c. 44, § 8\(24\)](#)

3. Massachusetts Office of Business Development (MOBD) and Department of Housing and Community Development (DHCD)

Both the MOBD and DHCD must approve plans relating to the following projects being financed by borrowing:

- a. City, town or improvement district borrowings to loan or grant funds to industrial development financing authorities and economic development and industrial corporations. [G.L. c. 44, § 8\(19\)](#)